

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF FINANCIAL ASSISTANCE
DECEMBER 11, 2018**

ITEM 6

SUBJECT

CONSIDERATION OF A PROPOSED RESOLUTION TO ADOPT THE CLEANUP AND ABATEMENT ACCOUNT FUNDING PROGRAM GUIDELINES AND WAIVE CERTAIN GRANT CRITERIA ASSOCIATED WITH PROPOSITION 84 EMERGENCY DRINKING WATER PROJECTS

DISCUSSION

The Cleanup and Abatement Account (CAA) is established by Water Code sections 13440 to 13443. The CAA is funded by various monies including those: appropriated by the Legislature; collected as part of criminal penalties or civil proceedings brought pursuant to Division 7 of the Water Code; collected or recovered by the State Water Resources Control Board (State Water Board) or a Regional Water Quality Control Board (Regional Water Board) under Chapter 6.7 of Division 20 of the Health and Safety Code; and repaid by loan recipients, including principal, interest, and fees.

In some instances, a court judgment or settlement agreement specifies how collected funds are to be spent (e.g., a specific cleanup, investigation, or supplemental environmental project [SEP]). Those funds may be set aside in the CAA for that identified purpose, consistent with statutes governing uses of the CAA.

The CAA is also used to pay various administrative fees and to pay for Regional Water Board staff oversight costs incurred to manage the Site Cleanup Program (SCP). Responsible parties (RPs) sign a cost recovery agreement with a Regional Water Board, and costs recovered from RPs return to the CAA.

After accounting for these needs and other prior encumbrances, remaining CAA funds may be utilized for the purposes allowed by the statute, including funding projects that clean up waste and/or abate the effects of waste on waters of the State, and projects that address urgent drinking water needs.

Historically the CAA has operated in accordance with an internal Administrative Procedures Manual that was periodically updated by the Division of Financial Assistance (DFA). Certain authorities related to the CAA are provided in State Water Board [Resolution No. 2013-0013](#).

DFA has developed Draft CAA Funding Program Guidelines (Guidelines) to establish the process and criteria for the allocation and administration of CAA funding for eligible projects. If adopted, these Guidelines would be utilized in soliciting applications, prioritizing and evaluating project proposals, and awarding funding for eligible projects.

DFA is also proposing to use the proposed Guidelines to administer remaining Proposition 84 (Prop 84) grant funds for emergency drinking water projects (Public Resources Code, Section 75021). The Guidelines would be used to administer remaining Prop 84 Emergency Grants, in

lieu of the [Section 75021 Emergency Grant Criteria established by the California Department of Public Health \(CDPH\) in 2012 \(CDPH Prop 84 Emergency Grant Criteria\)](#).

DFA will continue to ensure that the use of these funds follows statutory requirements, including but not limited to: providing funding to public water systems only, with a maximum of \$250,000 per project, and requiring a Labor Compliance Program for any public works projects.

The Draft Guidelines were posted on the State Water Board's website for [public review and comment](#) on October 9, 2018. The public comment period closed on November 9, 2018.

DFA staff have considered all comments and made appropriate revisions in preparing the Guidelines for State Water Board consideration.

POLICY ISSUES

Should the State Water Board:

1. Adopt the Guidelines, which supersede [Resolution No. 2013-0013](#)?
2. Authorize the Deputy Director of DFA to make non-substantive changes to the Guidelines?
3. Authorize the Deputy Director of DFA to direct Prop 84 Emergency Grant funds to eligible projects applying for funds through the CAA Program?
4. Waive the CDPH Prop 84 Emergency Grant Criteria for all projects funded after the date of this resolution?
5. Authorize the Deputy Director of DFA to approve or deny funding requests, award grants, and execute funding agreements and amendments for routine, non-controversial projects up to \$500,000 consistent with the Guidelines?
6. Authorize the Deputy Director of DFA to utilize funds from projects which are withdrawn or completed under budget to fund additional projects, or to utilize available funds to augment the scope of work and budget of projects previously awarded grants or loans, consistent with the Guidelines?
7. Authorize the Deputy Director of DFA to withdraw a funding award if the applicant is non-responsive or the DFA has exhausted reasonable efforts to resolve issues that prevent the execution of a funding agreement?
8. Authorize the Deputy Director of DFA to terminate a funding agreement where there is a violation of a material provision of the agreement by the recipient?

FISCAL IMPACT

After accounting for various revenues and expenses, there is typically approximately \$6 million available annually to fund projects. The Guidelines, if adopted, will formalize the criteria and process for administering these funds to eligible projects.

REGIONAL BOARD IMPACT

The Regional Water Boards and the Division of Drinking Water will assist in coordinating with entities that are potentially eligible for funding.

HUMAN RIGHT TO WATER

The projects funded under this Program are consistent with the established policy of the state recognizing the human right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes (human right to water; Water Code section 106.3). The Program is also consistent with [Resolution No. 2016-0010](#), in which the State Water Board adopted the human right to water as a core value and top priority. As directed by the State Water Board in Resolution No. 2016-0010, staff has determined that the proposed actions will support the human right to water by providing financial assistance to disadvantaged communities to address urgent drinking water needs.

STAFF RECOMMENDATION

Staff recommends approval of the proposed resolution.

State Water Board action on this item will assist the Water Boards in reaching Goal 4 of the Strategic Plan Update: 2008-2012 to comprehensively address water quality protection and restoration, and the relationship between water supply and water quality, and describe the connections between water quality, water quantity, and climate change, throughout California's water planning processes.